

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
BEAUMONT DIVISION

FRAZIER PORTER §  
VS. § CIVIL ACTION NO. 1:19-CV-295  
WAYNE BREWER, ET AL. §

**MEMORANDUM ORDER ADOPTING THE MAGISTRATE  
JUDGE'S REPORTS AND RECOMMENDATIONS**

Plaintiff Frazier Porter, a prisoner previously confined at the Stiles Unit of the Texas Department of Criminal Justice, Correctional Institutions Division, proceeding *pro se* and *in forma pauperis*, brought this civil rights action pursuant to 42 U.S.C. § 1983 against Wayne Brewer, Toby Powell, Jordan Landrio, David Mongtomery, Emma Glenn, Brendan Dunlap, Gideon Daniel, Clara Owens, Laura Midkiff, Stacey Ebner, and Jessica Judy.

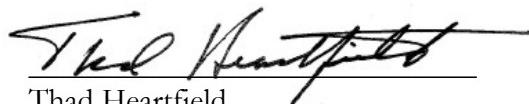
The Court referred this matter to the Honorable Keith F. Giblin, United States Magistrate Judge, at Beaumont, Texas, for consideration pursuant to applicable laws and orders of this Court. The magistrate judge has submitted three Reports and Recommendations of United States Magistrate Judge. The magistrate judge recommends granting defendant Brewer's motion to dismiss. The magistrate judge recommends denying defendant Powell's motion to dismiss with respect to the excessive force claim and granting the motion with respect to the claim of deliberate indifference to plaintiff's serious medical needs. Finally, the magistrate judge recommends granting defendants' second motion to dismiss as to defendants Montgomery, Glenn, Daniel, Midkiff, and Ebner, and denying the motion with respect to defendants Owens, Dunlap, and Judy.

The Court has received and considered the Reports and Recommendations of United States Magistrate Judge filed pursuant to such order, along with the record and the pleadings. Proper notice was given to the plaintiff at his last known address. *See* FED. R. CIV. P. 5(b)(2)(c). No objections to the Reports and Recommendations of United States Magistrate Judge were filed by the parties.

ORDER

Accordingly, the findings of fact and conclusions of law of the magistrate judge are correct, and the reports of the magistrate judge (document no. 77, 78, and 79) are **ADOPTED**. Defendant Brewer's motion to dismiss (document no. 44) is **GRANTED**. Defendants Powell's motion to dismiss (document no. 42) is **GRANTED** with respect to the medical claim and **DENIED** with respect to the excessive force claim. Defendants' second motion to dismiss (document no. 50) is **GRANTED** with respect to defendants Montgomery, Glenn, Daniel, Midkiff, and Ebner, and **DENIED** with respect to defendants Owens, Dunlap, and Judy. Defendants Brewer, Montgomery, Glenn, Daniel, Midkiff, and Ebner are **DISMISSED** from this action.

**SIGNED** this the 30 day of August, 2021.



Thad Heartfield  
United States District Judge